

1 SCOTT N. SCHOOLS (SCBN 9990)
2 United States Attorney
2 JOANN M. SWANSON (SBN 88143)
3 Chief, Civil Division
3 JAMES A. SCHARF (CSBN 152171)
4 Assistant United States Attorney

5 150 Almaden Blvd., Suite 900
6 San Jose, California 95113
7 Telephone: (408) 535-5082
8 FAX: (408) 535-5081
9 james.scharf@usdoj.gov

10 Attorneys for Defendant
11 John E. Potter, Postmaster General,
12 United States Postal Service

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN JOSE DIVISION

13 GURMAIL S. BATH,) Case No. C 07 03521 HRL
14 Plaintiff,)
15 v.) ANSWER OF DEFENDANT JOHN E.
16 JOHN E. POTTER, POSTMASTER) POTTER, POSTMASTER GENERAL,
17 GENERAL, UNITED STATES POSTAL) UNITED STATES POSTAL SERVICE
18 SERVICE)
19 Defendants.)

20 Defendant John E. Potter, Postmaster General, United States Postal Service, without waiving
21 the below-listed Affirmative Defenses, answers and otherwise responds to the Complaint as
22 follows. All paragraph references are to the Complaint.

23 1. Deny based upon lack of information and belief.
24 2. Deny; Defendant Potter is the Postmaster General and the chief executive officer of the
25 U.S. Postal Service. His office is located in Washington, DC.
26 3. Legal conclusion to which no response is required.
27 4. Legal conclusion to which no response is required.
28 5. Deny.

1 6. Deny.

2 7. Deny.

3 8. Admit that Plaintiff filed a formal EEO Complaint with the Postal Service on February 11,
4 2002; deny the remainder of the allegations of this paragraph.

5 9. Admit that the Equal Employment Opportunity Commission denied Plaintiff's Request for
6 Reconsideration of its December 24, 2006 Decision on April 26, 2007; deny the remainder of the
7 allegations of this paragraph.

8 10. Legal conclusion to which no response is required.

9 11. Prayer for relief to which no response is required.

10 Affirmative Defenses

11 1. The Complaint does not state a claim for which relief can be granted.

12 2. Plaintiff cannot prove a prima facie case of discrimination.

13 3. Plaintiff is not an individual with a disability within the meaning of the Rehabilitation Act
14 of 1973.

15 4. Any actions of the Postal Service were taken for non-discriminatory, non-pretextual
16 reasons.

17 5. If plaintiff is awarded compensatory damages, that award is limited to \$300,000. 42
18 U.S.C. Section 1981a(b)(3)(D).

19
20 WHEREFORE, the defendant prays that plaintiff takes nothing in this action that the
21 complaint be dismissed with costs to the defendant, and that this Court grant such other relief as
22 it may deem appropriate.

23
24 DATED: December 6, 2007

Respectfully submitted,

25 SCOTT N. SCHOOLS
26 United States Attorney

27
28 /s/ *James A. Scharf*

JAMES A. SCHARF
Assistant United States Attorney

1
CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that she is an employee of the Office of the United States
3 Attorney for the Northern District of California and is a person of such age and discretion to be
4 competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

5
**ANSWER OF DEFENDANT JOHN E. POTTER,
6 POSTMASTER GENERAL, UNITED STATES POST SERVICE**

7
Gurmail S. BATH v. JOHN E. POTTER, Postmaster General
8 Case No. C 07-03521 HRL

9 to be served this date upon the party(ies) as follows:

10 **FIRST CLASS MAIL** by placing such envelope(s) with postage thereon fully prepaid in the
11 designated area for outgoing U.S. mail in accordance with this office's practice.

12 **CERTIFIED MAIL (#)** by placing such envelope(s) with postage thereon fully prepaid in the
13 designated area for outgoing U.S. mail in accordance with this office's practice.

14 **PERSONAL SERVICE (BY MESSENGER)**

15 **FACSIMILE (FAX)** Telephone No.: _____

16 **FEDERAL EXPRESS**

17 **HAND-DELIVERED**

18 to the parties addressed as follows:

19 **Israel Gaxiola Ramirez**

20 **Israel Ramirez, Esq**

21 **653 North San Pedro Street, Suite C**

San Jose, CA 95110

22 I declare under penalty of perjury under the laws of the United States of America that the
23 foregoing is true and correct.

24 Executed this 6th day of December, 2007, at San Jose, California.

25
26

27

28 **/s/** _____
Mimi Lam
Legal Assistant